IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

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WRIT APPEAL NO : 960 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order, dated 07/02/2005 in WP NO : 24281 OF 1999 on the file of the High Court.)

Between:

The Depot Manager, APSRTC, Amalapuram, East Godavari District.

..... APPELLANT

AND

1 P.V.K. Murthy, S/o P. Veeranna,
R/o Amalapuram, East Godavari District.
2 Industrial Tribunal-cum-Labour Court, Visakhapatnam,
represented by its Presiding Officer.

.....RESPONDENTS

Counsel for the Appellant: KUM.B.G.UMA DEVI

Counsel for the Respondent No.1: Mr. G. Ravi Mohan

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following :

JUDGMENT: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ appeal is filed by the appellant aggrieved by the order, dated 7.2.2005 in W.P.No.24281 of 1999, under which the learned Single Judge directed reinstatement of the writ petitioner into service with continuity of service.

The 1st respondent herein is the writ petitioner and the appellant herein is the 2nd respondent in the writ petition. Originally, the writ petition was filed seeking a

direction in the nature of writ of Certiorari, to quash the award passed by the 1st respondent-Industrial Tribunal-cum-Labour Court,Visakhapatnam in I.D. No.141 of 1996, dated 09.08.1999.

The case of the writ petitioner is that on 09.08.1995, while he was conducting a bus on Amalapuram to Mummidivaram route, a check was made and then, on certain irregularities, he was kept under suspension and ultimately, he was removed from service on 18.12.1995. Thereupon, the writ petitioner approached the 1st respondent-Labour Court and it confirmed the removal order of the 2nd respondent. In contra, the 2nd respondent-Corporation filed a counter stating that the writ petitioner was removed from service as he issued used tickets to eight persons and the punishment imposed is justified, and therefore, it cannot be set aside. The learned Single Judge having observed that imposition of punishment of removal of the writ petitioner from service is wholly excessive allowed the writ petition directing reinstatement of the writ petitioner into service. Aggrieved by the same, the 2nd respondent-appellant preferred this appeal.

The learned Counsel for the appellant contends that the writ petitioner issued the used tickets and the said act of the writ petitioner is a serious misconduct and therefore, the writ petitioner is not entitled to be reinstated into service and the order under appeal is liable to be dismissed.

On the other hand, the learned Counsel for the writ petitioner contends that the learned Single Judge taking the totality of the circumstances and the charges framed against the petitioner into consideration, directed reinstatement of the writ petitioner and the finding of the learned Single Judge is in proper perspective and therefore, it cannot be interfered with.

On a perusal of the record, it is apparent that the writ petitioner was removed from service on certain irregularities committed by him in issuing tickets to eight passengers. The Labour Court confirmed the said punishment whereas the learned Single Judge of this Court having observed that the correctness of the punishment vis-a-vis the gravity of the allegations made against the petitioner was not considered by the Labour Court, directed reinstatement of the petitioner into service with continuity of service.

As can be seen from the award, the Labour Court after considering the entire

evidence on record and after giving cogent reasons observed that the removal of the petitioner from service is proper, but it did not consider the punishment vis-à-vis the gravity of the allegations made against the writ petitioner. Therefore, the learned Single Judge, having extracted the charges and other details, has given a specific finding regarding merits in the writ petition. In view of the material available on record and in view of the findings given by the learned Single Judge, we are of the considered view that there is no serious misconduct on the part of the writ petitioner and therefore, the harshest punishment of removal uncalled by the learned Single Judge is just and proper.

In view of the rival submissions made by the parties in respect of the continuity of service, this Court is inclined to modify the order of the learned Single Judge to the effect that the continuity of service would be counted as that of the actual service rendered, only for the purpose of retirement benefits. Rest of the order under appeal remained static.

With the above modification, the writ appeal is disposed of. No order as to costs.

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T. MEENA KUMARI, J

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P. LAKSHMANA REDDY, J

Dated:16.6.2005.

Nn.

Copy to:

1. The Depot Manager, APSRTC, Amalapuram, East Godavari District.

2 The Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.

3. Two C.Cs to the G.P. for Labour, High Court Buildings, High Court of A.P., Hyderabad (O.U.T.)

4. Two C.D. copies.